

House File 593 - Introduced

HOUSE FILE 593
BY COMMITTEE ON EDUCATION

(SUCCESSOR TO HSB 196)

A BILL FOR

1 An Act relating to state and school antiharassment and
2 antibullying policies.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 280.28, Code 2013, is amended to read as
2 follows:

3 **280.28 Harassment and bullying prohibited — policy —**
4 **immunity.**

5 1. *Purpose — findings — policy.* The state of Iowa is
6 committed to providing all students with a safe and civil
7 school environment in which all members of the school community
8 are treated with dignity and respect. The general assembly
9 finds that a safe and civil school environment is necessary
10 for students to learn and achieve at high academic levels.
11 Harassing and bullying behavior can seriously disrupt the
12 ability of school employees to maintain a safe and civil
13 environment, and the ability of students to learn and succeed.
14 Therefore, it is the policy of the state of Iowa that school
15 employees, volunteers, and students in Iowa schools shall not
16 engage in harassing or bullying behavior.

17 2. *Definitions.* For purposes of this section, unless the
18 context otherwise requires:

19 a. "Bullying" means any electronic, written, verbal,
20 or physical act or conduct toward a student which is based
21 on any reason other than any actual or perceived trait or
22 characteristic of the student and which creates an objectively
23 hostile school environment that meets one or more of the
24 following conditions:

25 (1) Places the student in reasonable fear of harm to the
26 student's person or property.

27 (2) Has a substantially detrimental effect on the student's
28 physical or mental health.

29 (3) Has the effect of substantially interfering with a
30 student's academic performance.

31 (4) Has the effect of substantially interfering with
32 the student's ability to participate in or benefit from the
33 services, activities, or privileges provided by a school.

34 a. b. "Electronic" means any communication involving the
35 transmission of information by wire, radio, optical cable,

1 electromagnetic, or other similar means. *"Electronic"* includes
 2 but is not limited to communication via electronic mail,
 3 internet-based communications, pager service, cell phones, and
 4 electronic text messaging, social networking internet sites,
 5 and any other form of communication using electronic means.

6 ~~b. c.~~ *"Harassment"* and ~~"bullying"~~ shall be construed to
 7 ~~mean~~ means any electronic, written, verbal, or physical act
 8 or conduct toward a student which is based on any actual or
 9 perceived trait or characteristic of the student and which
 10 creates an objectively hostile school environment that meets
 11 one or more of the following conditions:

12 (1) Places the student in reasonable fear of harm to the
 13 student's person or property.

14 (2) Has a substantially detrimental effect on the student's
 15 physical or mental health.

16 (3) Has the effect of substantially interfering with a
 17 student's academic performance.

18 (4) Has the effect of substantially interfering with
 19 the student's ability to participate in or benefit from the
 20 services, activities, or privileges provided by a school.

21 ~~e. d.~~ *"Trait or characteristic of the student"* includes but
 22 is not limited to age, color, creed, national origin, race,
 23 religion, marital status, sex, sexual orientation, gender
 24 identity, physical attributes, physical or mental ability or
 25 disability, ancestry, political party preference, political
 26 belief, socioeconomic status, ~~or~~ familial status, or any other
 27 distinguishing characteristic. This listing of traits and
 28 characteristics is not exhaustive. This paragraph shall be
 29 construed broadly to achieve the purposes of this section.

30 ~~d. e.~~ *"Volunteer"* means an individual who has regular,
 31 significant contact with students.

32 3. *Policy.* On or before September 1, 2007, the board of
 33 directors of a school district and the authorities in charge of
 34 each accredited nonpublic school shall adopt a policy declaring
 35 harassment and bullying in schools, on school property, and at

1 any school function, or school-sponsored activity regardless
 2 of its location, in a manner consistent with this section, as
 3 against state and school policy. The board and the authorities
 4 shall make a copy of the policy available to all school
 5 employees, volunteers, students, and parents or guardians and
 6 shall take all appropriate steps to bring the policy against
 7 harassment and bullying and the responsibilities set forth in
 8 the policy to the attention of school employees, volunteers,
 9 students, and parents or guardians. Each policy shall, at a
 10 minimum, include all of the following components:

11 a. A statement declaring harassment and bullying to be
 12 against state and school policy. The statement shall include
 13 but not be limited to the following provisions:

14 (1) School employees, volunteers, and students ~~in~~
 15 ~~school, on school property, or at any school function or~~
 16 ~~school-sponsored activity~~ shall not engage in harassing
 17 and bullying behavior in any of the following locations or
 18 circumstances:

19 (a) In school.

20 (b) On school property.

21 (c) In any vehicle which is owned, leased, provided, or
 22 hired by the school.

23 (d) At any school function or school-sponsored activity.

24 (e) While using any property or equipment which is owned,
 25 leased, or provided by the school.

26 (f) While attending or engaged in school activities.

27 (g) In any other location or circumstance if the act or
 28 conduct at issue directly affects the good order, efficient
 29 management, and welfare of the school.

30 (2) School employees, volunteers, and students shall not
 31 engage in reprisal, retaliation, or false accusation against a
 32 victim, witness, or an individual who has reliable information
 33 about such an ~~act~~ incident of harassment or bullying or against
 34 an individual who has reported an incident of harassment or
 35 bullying under a policy adopted pursuant to this section.

1 *b.* A definition of harassment and bullying as set forth in
2 this section.

3 *c.* A description of the type of behavior expected from
4 school employees, volunteers, parents or guardians, and
5 students relative to prevention measures, reporting, and
6 investigation of harassment or bullying.

7 *d.* The consequences and appropriate remedial action for a
8 person who violates the antiharassment and antibullying policy.

9 *e.* A procedure for reporting an ~~aet~~ incident of harassment
10 or bullying, including the identification by job title of the
11 school official responsible for ensuring that the policy is
12 implemented, and the identification of the person or persons
13 responsible for receiving reports of incidents of harassment
14 or bullying.

15 *f.* A procedure for the prompt investigation of ~~complaints~~
16 reports, either identifying the school superintendent or the
17 superintendent's designee as the individual responsible for
18 conducting the investigation, including a statement that
19 investigators will consider the totality of circumstances
20 presented in determining whether conduct objectively
21 constitutes harassment or bullying under this section.

22 *g.* A statement of the manner in which the policy and the
23 process for reporting incidents of harassment or bullying will
24 be publicized.

25 4. *Programs encouraged.* The board of directors of a school
26 district and the authorities in charge of each accredited
27 nonpublic school are encouraged to establish evidence-based
28 programs designed to eliminate harassment and bullying in
29 schools. To the extent that funds are available for these
30 purposes, school districts and accredited nonpublic schools
31 shall do the following:

32 *a.* Provide training on antiharassment and antibullying
33 policies to school employees and volunteers who have
34 significant contact with students.

35 *b.* Develop a process to provide school employees,

1 volunteers, and students with the skills and knowledge to help
2 reduce incidents of harassment and bullying.

3 5. *Immunity.*

4 a. A school employee, volunteer, or student, or a student's
5 parent or guardian who promptly, reasonably, and in good faith
6 reports an incident of harassment or bullying, in compliance
7 with the procedures in the policy adopted pursuant to this
8 section, to the appropriate school official designated by the
9 school district or accredited nonpublic school, shall be immune
10 from civil or criminal liability relating to such report and
11 to participation in any administrative or judicial proceeding
12 resulting from or relating to the report.

13 b. A school employee who promptly, reasonably, and in
14 good faith makes an effort to follow the procedures in the
15 policy adopted pursuant to this section upon the school's
16 receipt of a report of an incident of harassment or bullying,
17 or who determines not to investigate or take further action
18 regarding a report of an incident of harassment or bullying
19 that allegedly occurred outside the locations or circumstances
20 provided in subsection 3, paragraph "a", subparagraph (1),
21 shall be immune from civil or criminal liability relating
22 to such effort or determination and to participation in
23 any administrative or judicial proceeding resulting from or
24 relating to the effort or determination.

25 6. *Collection requirement.* The board of directors of
26 a school district and the authorities in charge of each
27 nonpublic school shall develop and maintain a system to collect
28 harassment and bullying incidence data.

29 7. *Integration of policy and reporting.* The board of
30 directors of a school district and the authorities in charge of
31 each nonpublic school shall integrate its antiharassment and
32 antibullying policy into the comprehensive school improvement
33 plan required under section 256.7, subsection 21, and shall
34 report data collected under subsection 6, as specified by the
35 department, to the following information to the local community

1 and the department:

2 a. Data collected under subsection 6, as specified by the
3 department.

4 b. The process used for reporting incidents of harassment
5 or bullying, including the means of accessing the policy and
6 online and other methods for such reporting.

7 c. Antiharassment and antibullying training provided to or
8 performed by school employees, volunteers, or students during
9 each school year.

10 8. *Existing remedies not affected.* This section shall not
11 be construed to preclude a victim from seeking administrative
12 or legal remedies under any applicable provision of law.
13 This section shall not be construed to limit or alter the
14 responsibility of a school district or accredited nonpublic
15 school to comply with other state or federal education or civil
16 rights laws that protect against harassment or discrimination.

17 9. *Rulemaking authority.* The department of education may
18 adopt rules under chapter 17A necessary to implement this
19 section.

20 10. *Rule of construction.* This section shall not be
21 construed to prohibit a school district or accredited nonpublic
22 school from responding to or addressing an act or conduct that
23 would constitute "harassment" or "bullying" as defined in this
24 section but for the fact that the act or conduct occurred
25 outside the locations or circumstances provided in subsection
26 3, paragraph "a", subparagraph (1).

27 EXPLANATION

28 This bill makes various changes relating to state and school
29 antiharassment and antibullying policies.

30 Under current law, "harassment" and "bullying" are defined
31 as any electronic, written, verbal, or physical act or conduct
32 toward a student which is based on any actual or perceived
33 trait or characteristic of the student and which creates an
34 objectively hostile school environment that meets certain
35 conditions. The bill distinguishes these two terms. The bill

1 defines "harassment" as any electronic, written, verbal, or
2 physical act or conduct toward a student which is based on any
3 actual or perceived trait or characteristic of the student and
4 which creates an objectively hostile school environment that
5 meets certain conditions. The bill defines "bullying" as any
6 electronic, written, verbal, or physical act or conduct toward
7 a student which is based on any reason other than any actual
8 or perceived trait or characteristic of the student and which
9 creates an objectively hostile school environment that meets
10 certain conditions.

11 Under current law, "trait or characteristic of the student"
12 is defined to include but not be limited to age, color,
13 creed, national origin, race, religion, marital status, sex,
14 sexual orientation, gender identity, physical attributes,
15 physical or mental ability or disability, ancestry, political
16 party preference, political belief, socioeconomic status, or
17 familial status. The bill applies the definition to any other
18 distinguishing characteristic of a student. The bill provides
19 that the definition is not exhaustive and must be construed
20 broadly to achieve the purposes of the bill.

21 The bill adds social networking internet sites and any other
22 form of communication using electronic means to the definition
23 of "electronic".

24 Under current law, school antiharassment and antibullying
25 policies must prohibit harassment and bullying in school, on
26 school property, and at any school function or school-sponsored
27 activity. The bill adds presence in any vehicle owned,
28 leased, provided, or hired by the school; during the use of
29 any property or equipment owned, leased, or provided by the
30 school; while attending or engaged in school activities; and
31 in any other location or circumstance if the act or conduct at
32 issue directly affects the good order, efficient management,
33 and welfare of the school to this list.

34 The bill requires school antiharassment and antibullying
35 policies to prohibit reprisal, retaliation, or false accusation

1 against an individual who has reported an incident of
2 harassment or bullying under the bill. The bill provides that
3 school antiharassment and antibullying policies must require
4 the process for reporting incidents of harassment or bullying
5 to be publicized.

6 The bill provides that a school employee who promptly,
7 reasonably, and in good faith makes an effort to follow the
8 procedures in the school's antiharassment and antibullying
9 policy upon the school's receipt of a report of an incident of
10 harassment or bullying, or who determines not to investigate or
11 take further action on a report of an incident of harassment
12 or bullying that allegedly occurred outside the locations or
13 circumstances covered by the policy, is immune from any related
14 civil or criminal liability and from participation in any
15 related administrative or judicial proceeding.

16 The bill expands the information relating to harassment and
17 bullying that schools are required to report to the department
18 of education. The bill authorizes the department to adopt
19 rules necessary to implement the bill.

20 The bill is not to be construed to limit or alter the
21 responsibility of a school to comply with other state or
22 federal education or civil rights laws that protect against
23 harassment or discrimination.

24 The bill is not to be construed to prohibit a school from
25 responding to or addressing an act or conduct that would
26 constitute "harassment" or "bullying" as defined in the bill
27 but for the fact that the act or conduct occurred outside
28 the locations or circumstances covered by the school's
29 antiharassment and antibullying policy.